

STATE OF NEW YORK

6143

2017-2018 Regular Sessions

IN ASSEMBLY

February 27, 2017

Introduced by M. of A. ROSENTHAL -- read once and referred to the
Committee on Judiciary

AN ACT to amend the administrative code of the city of New York, in
relation to requiring notification by mortgagees commencing foreclo-
sure actions to aid in the identification and improvements of at-risk
properties

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. Section 27-2109.1 of the administrative code of the city of
2 New York is amended by adding a new subdivision d to read as follows:

3 d. 1. Any mortgagee that commences an action in a court of competent
4 jurisdiction in the state of New York to foreclose a mortgage on a
5 multiple dwelling with ten or more units shall provide written notice to
6 the department within fifteen days of service of the pleadings commenc-
7 ing such action. If such action was commenced before the effective date
8 of the local law that added this section, and remains pending as of such
9 effective date, notification shall be provided within thirty days of
10 such effective date. For purposes of this subdivision department shall
11 mean the department of housing preservation and development.

12 2. Such notice shall include, but is not limited to, the following
13 information: (i) the name of the mortgagee plaintiff commencing such
14 action and the mailing address, telephone number and e-mail address of
15 such mortgagee plaintiff, and, when applicable, the name of a principal
16 or corporate officer of such mortgagee plaintiff, and the mailing
17 address, telephone number and e-mail address of such principal or corpo-
18 rate officer; (ii) the name, mailing address, telephone number and
19 e-mail address of the defendant in such action; (iii) the identification
20 of such residential real property by street address and block and lot
21 number; (iv) the date of the commencement of such action; (v) the court
22 in which such action was commenced and the index number of such action;
23 (vi) the property's appraised fair market value; (vii) the amount of the
24 principal balance owed under the mortgage being foreclosed, including
25 interest and principal arrears, late fees and any other sums due and
26 owing as of the date of filing of the complaint; (viii) the interest

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 rate and maturity date of the mortgage being foreclosed, including the
2 amount, if any, necessary to bring the loan current as of the date of
3 filing of the complaint; (ix) a list, including amounts, of any other
4 indebtedness on the residential real property that is the subject of the
5 foreclosure action as set forth in the pleadings; (x) whether there is
6 any government investment in the property; (xi) whether there are any
7 outstanding municipal arrears; (xii) whether such property has a certifi-
8 cate of occupancy; (xiii) any code violations that the property
9 currently has; and (xiv) such other information as the department may
10 require by rule.

11 3. The department shall then make a determination of whether such
12 property being foreclosed on is an "at-risk" property. In making its
13 determination the department shall consider subparagraphs (vi) through
14 (xiii) of paragraph two of this subdivision, and any other information
15 the department finds relevant to making its determination. For purposes
16 of this section an "at-risk" property shall mean a property in physical
17 and/or financial distress.

18 4. In any foreclosure proceeding under this section where the depart-
19 ment has declared the property to be at-risk, the department may move to
20 have a receiver appointed or replaced. The department shall provide a
21 list of approved receivers and managing agents to the office of court
22 administration which shall require that the court appoint a receiver
23 from such list within one hundred eighty days after the effective date
24 of this subdivision. Any receiver or managing agents shall be made a
25 party to the foreclosure proceedings.

26 5. A mortgagee shall notify the department within fifteen days of the
27 discontinuance of an action for which notice pursuant to paragraph one
28 of this subdivision has been received by the department, the issuance of
29 a judgment in such action, or the sale of the real property as a result
30 of such action.

31 6. The department may collect a two percent fee on the sale of the
32 real property as a result of such action. Such monies shall be provided
33 to the receiver for the purposes of rehabilitating the property, with
34 the expended money becoming a priority lien on the property.

35 § 2. Section 27-2130 of the administrative code of the city of New
36 York is amended to read as follows:

37 § 27-2130 Grounds for appointment of receiver. 1. Whenever the depart-
38 ment certifies that any condition in violation of this chapter or other
39 applicable law in any multiple dwelling or any part of its premises
40 constitutes a serious fire hazard or is a serious threat to life, health
41 or safety, it may, upon failure of the owner to comply with an order to
42 correct such conditions issued pursuant to section 27-2125 of article
43 five of this subchapter, apply for the appointment of a receiver to
44 repair and correct the violations.

45 2. Whenever any mortgagee commences an action in a court of competent
46 jurisdiction in the state of New York to foreclose a mortgage on a
47 multiple dwelling with ten or more units and where the department has
48 declared the property being foreclosed on to be an "at-risk" property
49 pursuant to section 27-2109.1 of this chapter, the department may move
50 to have a receiver appointed or replaced. The department may provide a
51 list of approved receivers and managing agents to the office of court
52 administration which shall require that the court appoint a receiver
53 from such list. For purposes of this subdivision department shall mean
54 the department of housing preservation and development.

55 § 3. This act shall take effect immediately.